

REMARKS

Applicants submit concurrently herewith a Notice of Appeal in the above patent application. In that the fee for the Notice of Appeal was previously submitted on July 14, 2005, the prior submission of the appeal fee is applicable to the present notice pursuant to MPEP Section 1204, and additional fees is not now required.

As to the specific rejections, the current combination of references, when properly considered in their entirety, are still not believed to disclose Applicants' claimed invention.

In preparation of submission of an appropriate Appeal Brief, Applicants request reconsideration of the rejections and further clarification thereof to better prepare the issues for appeal.

First, as to the first paragraph of Page 2 of the Office Action, this paragraph relating to withdrawal of the allowability of Claims 8, 9, and 13-18 is believed to be an inadvertent duplication of the same paragraph presented in the prior August 5, 2005 Office Action, and as such, for purposes of appeal, this paragraph is being disregarded.

As to the substantive comments contained on Page 2 of the Office Action in support of the rejection of Claims 1, 6, 7, 14 and 25-27, it is believed that the continued references to parts 305, 306, 309 and glass pane 293 are not believed applicable to the present claims.

In particular, Applicants again note that there are two separate glass panel constructions disclosed in the Ackerly '179 patent. As to the first panel construction, this panel construction is window construction 50 which is mounted to the extendible partition-to-ceiling subframe 47. According to Column 12, Lines 56-60, this window construction 50 comprises a glass pane 164 and a "marginal structural frame" comprising top, bottom and side frame extrusions 165, 166 and 167. When preparing an Appeal Brief, it is believed proper that the Appeal Brief should solely focus upon the window construction 50 and not to the distinctly different glass-supporting base

partition panel 43 and the glass 293 and frame parts 305, 306 and 309 supported thereon.

More particularly, it is noted that the window construction 50 is described in detail continuing from Column 13 of the description through Column 16, Line 5.

As for the glass-supporting base partition panel 43, this structure is disclosed primarily beginning at Column 17, Line 27 through the upper portion of Column 18. It is noted that this glass-supporting base partition panel 43 uses structure which is quite different from the window construction 50 referenced above, as well as being different from Applicants' claimed invention, and thus glass pane arrangement of panel 43 has little relevance to the current rejection.

In particular, the glass-supporting base partition panel 43 discloses a bottom glass pane 293 that mounts to frame 292 by L-shaped glass captors 305, as well as other L-shaped glass captors which are disclosed in further detail in related U.S. Patent No. 6 141 925 (copy attached as evidence of patentability) which is specifically directed to this bottom frame construction. In that these L-shaped glass captors 305 only snap to the bottom panel frame of the partition panel 43 and trap the glass pane 293 against the face of the perimeter window frame 292, this arrangement is believed to clearly distinguish from Applicants' claimed invention which uses an edge rail having a fixing channel with opposite channel walls that directly contact opposite glass faces of the glass pane in Applicants' claimed invention.

Further, these glass captors 305 and the associated perimeter window frame 292 distinctly differs in construction from the window construction 50 referenced above, wherein intermixing the discussion of these two window constructions in the Office Action is believed to confuse the issues for appeal. The undersigned respectfully suggests that it would clarify issues by disregarding the citations to reference numerals 305, 306 and 309 in the Office Action since such structures are not comparable to the structures of the window

construction 50, and clearly do not relate to Applicants' claimed invention since only single-sided glass captors such as captors 305 are used on the bottom glass pane 293.

Secondarily, the statement "Hence, the support/connector part (43, 47) is then supported on the connector/support (43, 47) by the lower edge, at least, of the upper glass panel (164)." is not understood. In particular, it is not understood how the same part can be supported by itself and it is also noted that the sentence references upper glass "panel 164 which is not itself a panel in the sense of a wall panel, but is only a glass "pane". Further clarification of this statement would assist in preparation of an Appeal Brief so that Applicants can better understand the issues for appeal. Applicants do acknowledge that the extendible partition-to-ceiling subframe 47 mounts to the glass-supporting partition panel 43 through the structural wireway construction 46 mounted to the top of the partition panel 43.

As to the specific combination of Ackerly and Brooks, it is believed that this basic combination is deficient as will be described in more detail in an appropriate Appeal Brief. Generally, it is noted that the top and bottom edge frame members 165 and 166 do disclose channels therein but require the respective wipers or gaskets 192 and wipers 172 and 173. In this regard, the top frame extrusion 165 includes the recess 199 for receiving the upper edge of the glass pane 164 while the bottom extrusion 166 includes opposing flanges 169 and 170 that define a recess in which the bottom edge of the glass pane 164 is received. First, it is noted that there is absolutely no direct contact between the rigid walls of these top and bottom extrusions 165 and 166 which define the recesses. Therefore, the comment on page 8 as to the wipers is believed to misconstrue Applicants' position and disregards the claim language. Specifically, page 8 includes the statement that these wipers are described in a manner which is a "sure indication that there is tight compressive contact indirectly through the wipers". However, Applicants' position

is that Claim 1 as well as the other claims do not encompass indirect contact between the channel walls and the glass through some intermediate wiper. Rather, it is noted that Claim 1 specifically defines the channel walls as having "rigid" opposing interior wall surfaces that are rigid and respectively contact the opposite glass faces. Claim 1 clearly defines the glass edge is in tight-fitting compressive contact by the "rigid opposing interior wall surfaces" which preclude the possibility of a flexible intermediate gasket. Thus, the existence of wipers in all embodiments of the Ackerly grooves is a critical distinction which should not be disregarded since such are necessary for supporting the glass thereof.

Furthermore, these wipers are believed to be important for assembly of the invention of Ackerly which discloses in Column 13, Line 57 through Column 14, Line 3 that assembly is accomplished by inserting the upper end of the glass pane into the recess 189 which is deep enough to allow the upper edge of the glass pane 164 to be inserted "too far" into the recess 189 so that it allows the lower edge of the glass pane 164 to be positioned above and then lowered into the glass-retaining recess in the bottom extrusion 166. This necessarily prevents the side walls of these recesses from being too narrow which would prevent the glass pane 164 from being inserted at an angle relative to the recess and then swung inwardly into vertical alignment with the lower recess. Thus, the wipers are believed to be required to provide a flexible surface that allows this assembly process.

However, the combination of Ackerly and Brooks as presented in the Office Action requires elimination of the wipers and thereby results in a complete change to the structure and function of the frame extrusions 165 and 166 as disclosed in Ackerly. In effect, this combination is deficient since elimination of the wipers which elimination is inherent in the combination of Ackerly and Brooks changes the principle of operation of Ackerly structure which uses a pre-

assembled rigid frame and a glass pane which is inserted into the frame after the fact which thereby teaches away from the combination of references in accord with MPEP Section 2143.02 (VI).

Clearly, Ackerly does not disclose any direct contact between recess side walls and the pane of glass and in fact requires the various wipers for stabilizing the glass pane 164 and centering same. These wipers further permit the assembly process to even be performed.

Also, as will be discussed in further detail in an Appeal Brief, the actual combination of Brooks and Ackerly requires completely disregarding the vast majority of the disclosure of Brooks. Essentially it seems that the only disclosure of Brooks being considered is the bare statements in Column 4, Lines 22-28 as to the channel 21 having clamping legs 52 which deflect and clampingly engage the wall divider 16, although even the recitation that this raceway channel 21 mounts to the "wall divider 16" must also be disregarded so as to formulate the rejection. Other than these approximately seven to eight lines of disclosure, it seems that the remaining disclosure and drawings of the Brooks '538 patent are disregarded so as to formulate the rejection. If the entirety of Brooks were considered, a combination of Brooks and Ackerly would only result in mounting of a raceway channel to the terminal top edge of a wall panel, and would not provide any motivation or suggestion of changing a substantially smaller frame rail for a sheet of glass. Thus, the rejection fails to consider the teachings of the references as a whole and only permissibly selects an isolated portion of Brooks.

It is noted that the claimed invention provides distinct advantages over the prior art and specifically the prior art glass panel systems which use an elastomer gasket therein. The claimed invention, however, provides an edge frame for the glass which uses rigid edge rails with at least one of the channel walls of the edge rail being resiliently deflectable to permit appropriate insertion of the glass edge in the

channel opening while eliminating the requirement of separate elastomer gaskets. The specific structure of these channel rails as defined by the various claims is believed to be unique over the prior art and provides a unique combination of a glass panel assembly of an office furniture system.

These points are only touched on briefly and will be expanded upon in an appropriate Appeal Brief. It is still believed that such issues could be resolved through an appropriate interview with the Examiner and the Examiner's supervisor. Subsequent to the filing of this paper, the undersigned will contact the Examiner to determine if there is any benefit to arranging such an interview.

Respectfully submitted,


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U.S. Patent No. 6 141 925 (Halvorson, Jr., et al.)

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